

## **REMARKS**

Claims 1-24 and 26-27 stand rejected in the Final Office Action dated July 22, 2009 as being unpatentable under 35 USC 103(a) by US Patent No. 6,850,226 to Finke-Anlauff (“Finke-Anlauff”) in view of Lenchik et al. (“Lenchik”) (U.S. Patent No. 7,257,430).

Independent claims 1, 8 and 15 are independent claims; all other claims are dependent. For the reasons below, Applicant request that the Examiner reconsider its new grounds for rejecting the pending claims and find all pending claims allowable over the cited prior art.

### **I. Independent Claims 1, 8 and 15**

In the current Office Action the Examiner concedes that the pending claims are not anticipated by Finke-Anlauff and, therefore, raise new grounds for rejecting the claims. In particular, the Examiner now rejects the claims as obvious over newly cited Lenchik. In making this new rejection, however, the Examiner expressly acknowledges that Finke-Anlauff does not teach “in a state where an item is selected from the plurality of items of the item selecting screen, in response to a state change from the closed state to the opened state, the control section controls said display section to change into display [sic] a screen image corresponding to the selected item from the item selecting screen.” Office Action at 4. Rather, Finke-Anlauff, as asserted by the Examiner teaches “having a menu system where the user can access via hardware control from the keypad.” Id. The Examiner now relies on Lenchik to supplement the acknowledged deficiencies in Finke-Anlauff. Lenchik, however, also fails to teach the claimed element that is admittedly absent in Finke-Anlauff.

The Examiner relies on Lenchik as disclosing “in a state where an item is selected from the plurality of items on the item selecting screen, in response to a state change from the closed state to the opened state, the control section controls said display section to change into displaying a screen image corresponding to the selected item from the item selection screen.”

But this element is absent. Lenchik discloses that an operation mode (service) of the portable electronic device 100 can be selected based on the relative position of the first element 104 and the second element 106. The portable electronic device 100 may include an alert that notifies the user that a non-selected service is waiting to receive (col. 4, lines 46-67). Lenchik, however, fails to disclose a screen image corresponding to the selected item that is displayed in response to a state change from the closed state to the opened state. For that reason alone, Lenchik, when combined with Finke-Anlauff, cannot render the pending claims obvious.

Additionally, as noted above, Lenchik merely shows that an operation mode can be selected based on the relative position of the two elements 104 and 106. Lenchik never discloses the relationship between displaying the image corresponding to the selected item and a state change from the closed state to the opened state.

Furthermore, we note that Lenchik, like Finke-Anlauff does not disclose displaying an item selecting screen. Moreover, the portions of Lenchik relied on by the Examiner do not disclose an item selecting screen. In Lenchik, an application or mode is selected based on the positional relationship between the two housings not from on an item selecting screen in response to a state change. Thus, even if the disclosures of Lenchik and Finke-Anlauff are combined, the combination does not show teach or suggest displaying a screen image corresponding to the selected item, which is selected in the item selecting screen, in response to a state change from the closed state to the opened state.

## **II. Dependent Claim 24**

Both Finke-Anlauff and Lenchik fail to disclose the configuration of displaying a specific screen when an item which requires an operation by the main operation is selected by an operation of said auxiliary operation section. That is, Finke-Anlauff and Lenchik fail to disclose

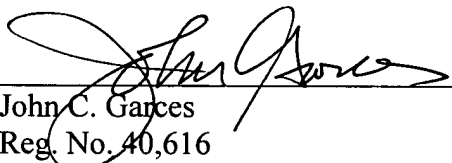
displaying a message screen (prompting a user to change said portable unit into the opened state) in response to that specific item which requires an operation by the main operation is selected by an operation of said auxiliary operation section.

For the foregoing reasons, each of independent claims 1, 8 and 15 are allowable over Finke-Anlauff. For the same reasons, each of the claims dependent on each of those independent claims is also allowable. Thus, claims 1-24, 26 and 27 are patentable over Finke-Anlauff.

The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicant petitions for that extension of time required to make this response timely. Kindly charge any additional fee, or credit any surplus, to Deposit Account No. 50-0675, Order No. 848075-0061.

Respectfully submitted,

Date: October 21, 2009  
New York, New York

  
John C. Garces  
Reg. No. 40,616

Schulte Roth & Zabel, LLP  
919 Third Avenue  
New York, NY 10022